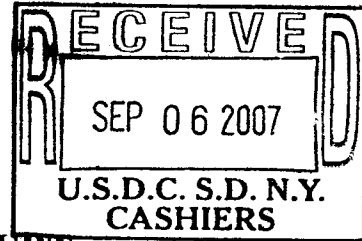


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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X

GERLING –KONZERN ALLGEMEINE
VERSICHERUNGS A.G.

Plaintiff

- against -

CSX TRANSPORTATION, INC.,

Defendant.

-----X

JUDGE LEISURE
INDEX No:
07 CIV 7865

COMPLAINT

The plaintiff, Gerling-Konzern Allgemeine Versicherungs A.G. ("Gerling"), herein, by and through their attorneys Hill Rivkins & Hayden LLP, complaining of the above-named defendant, alleges upon information and belief as follows:

1. This is an action between citizens of different states involving an amount in excess of \$75,000 exclusive of interests costs and attorney fees, and jurisdiction exists pursuant to 28 USCA § 1332 .

2. At and during all the times hereinafter mentioned, Plaintiff GERLING was and now is stock company organized and existing under and by virtue of the laws of the Republic of Germany with and office and place of business at Cologne, Germany.

3. At and during all the times hereinafter mentioned, Plaintiff GERLING insured the shipment hereinafter described in paragraph 7 hereof and indemnified the owner of the Shipment for the damages it sustained, and by reason of that payment became subrogated to the rights of the owner of this Shipment.

4. Upon information and belief, at and during all the times hereinafter mentioned, Defendant CSX TRANSPORTATION, INC. was and now is a corporation and/or other business entity organized and existing under and by virtue of one of the laws of the United States with and office and place of business at 1 Pennsylvania Ave., Kearney, New Jersey 07032.

5. On or about April 6, 2006, at Pleasant Prairie, Wisconsin, Hospira Worldwide Inc caused to be delivered to CSX a shipment of 2208 cases non-hazardous pharmaceutical product Ciproflaxin, a synthetic antibiotic more commonly known under the tradename of Cipro® (the "Shipment") which Defendants CSX accepted and for good and valuable consideration agreed to carry to Jersey City, New Jersey.

6. At the time the Shipment was delivered to defendants CSX in good order and condition, said Defendants were advised and informed that the Shipment must be maintained between 59° - 72°F during the course of transit, but contrary to their duties and obligations, defendants CSX maintained the Shipment at a temperature of - 17°, thus causing the product to freeze and become commercially worthless.

7. By reason of the premises, the defendant was negligent and careless in its handling of Plaintiff's cargo, violated its duties and obligations as a common carrier and bailee of the cargo and was otherwise at fault.

8. Plaintiff was the shipper, consignee or owner of said shipment and brings this action on its own behalf and, as agent and trustee, on behalf of and for the interest of all parties who may be or become interested in the said shipment, as their respective interests may ultimately appear, and plaintiff is entitled to maintain this action.

9. Plaintiff has duly performed all duties and obligations on its part to be performed.

10. By reason of the premises, Plaintiff has sustained damages as nearly as same can now be estimated, no part of which has been paid, although duly demanded, in the total amount of \$135,000.00

WHEREFORE, Plaintiff respectfully requests that

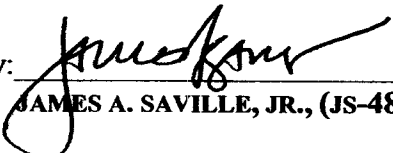
1. due process of law be issued against the Defendants,
2. that judgment be entered in favor of Plaintiff and against Defendants in the amount of \$ 135,000 together with interest, costs and attorney fees,

3. that Plaintiff have such other and further relief as may be just and proper under the circumstances.

Dated: New York, New York

September 6, 2007

HILL, RIVKINS & HAYDEN LLP
Attorneys for Plaintiff

By: 

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